

KCB:AP/RSB/ML
F. #2023R00837

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

██████████
RYAN NIEVES and
CALEB SMITH,

Defendants.

----- X

EASTERN DISTRICT OF NEW YORK, SS:

MAX DOUGAL, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation (“FBI”), duly appointed according to law and acting as such.

On or about September 23, 2023, within the Eastern District of New York and elsewhere, the defendants ██████████ RYAN NIEVES and CALEB SMITH did knowingly and intentionally obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by robbery, to wit: the robbery of United States currency from a bodega located on Franklin Avenue in Brooklyn, New York.

(Title 18, United States Code, Section 1951(a))

On or about September 23, 2023, within the Eastern District of New York and elsewhere, the defendants ██████████ RYAN NIEVES and CALEB SMITH, together with others, did knowingly and intentionally use and carry one or more firearms during and in relation to a crime of violence, to wit: the Hobbs Act robbery described above in violation of 18

To Be Filed Under Seal

AFFIDAVIT AND
COMPLAINT IN SUPPORT
OF AN APPLICATION FOR
ARREST WARRANTS

(18 U.S.C. §§ 924(c), 1951(a))

Case No. 24-MJ-392

U.S.C. § 1951(a), and did knowingly and intentionally possess such firearms in furtherance of said crime of violence, one or more of which firearms was brandished.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii) and 2)

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Special Agent with the Federal Bureau of Investigation and have been since 2020. I am currently assigned to Squad C-30 in the FBI New York Field Office (the "Task Force"), which investigates violent gang criminal enterprises. As an FBI Special Agent, I have been involved in the investigation of numerous cases involving criminal activity by gangs and other organized criminal groups, including narcotics trafficking, firearms possession, robbery, assault and murder. I am familiar with the facts and circumstances set forth below from my participation in the investigation as well as my review of the investigative file, surveillance camera footage and reports of other law enforcement officers involved in the investigation.

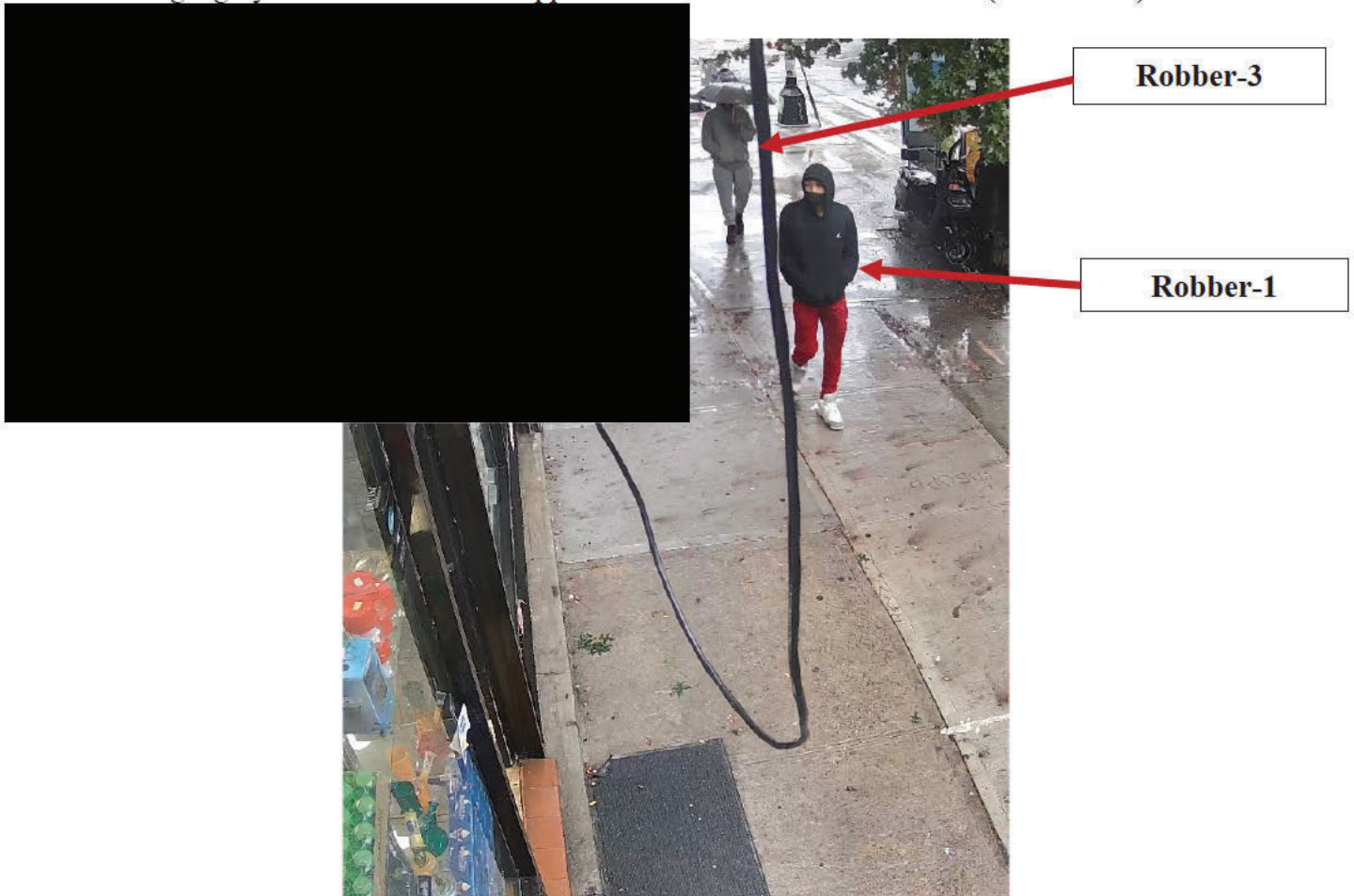
2. On or about September 23, 2023, at approximately 4:23 p.m., three individuals, later determined to be the defendants [REDACTED] RYAN NIEVES and CALEB SMITH, as discussed in greater detail below, entered and robbed a bodega (the "Bodega"), engaged in the sale of smoke products and other retail items, located on Franklin Avenue in Brooklyn, New York (hereafter, the "Bodega Robbery"). NIEVES pointed a firearm at a store clerk as [REDACTED] SMITH waited at the

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

entrance and acted as a lookout. The defendants stole, among other things, approximately \$200 from the Bodega.

The Bodega Robbery

3. As shown below, surveillance video from outside of the Bodega captured the following three men approaching the Bodega: (1) a male with a black face mask below his nose wearing a dark colored hoodie, red track pants and what appeared to be grey and white hi-top sneakers with an Air Jordan logo in white towards the back heel of the sneakers (“Robber-1”); (2) [REDACTED] (“Robber-2”); and (3) a third male wearing a grey sweatsuit with what appeared to be red and black sneakers (“Robber-3”).

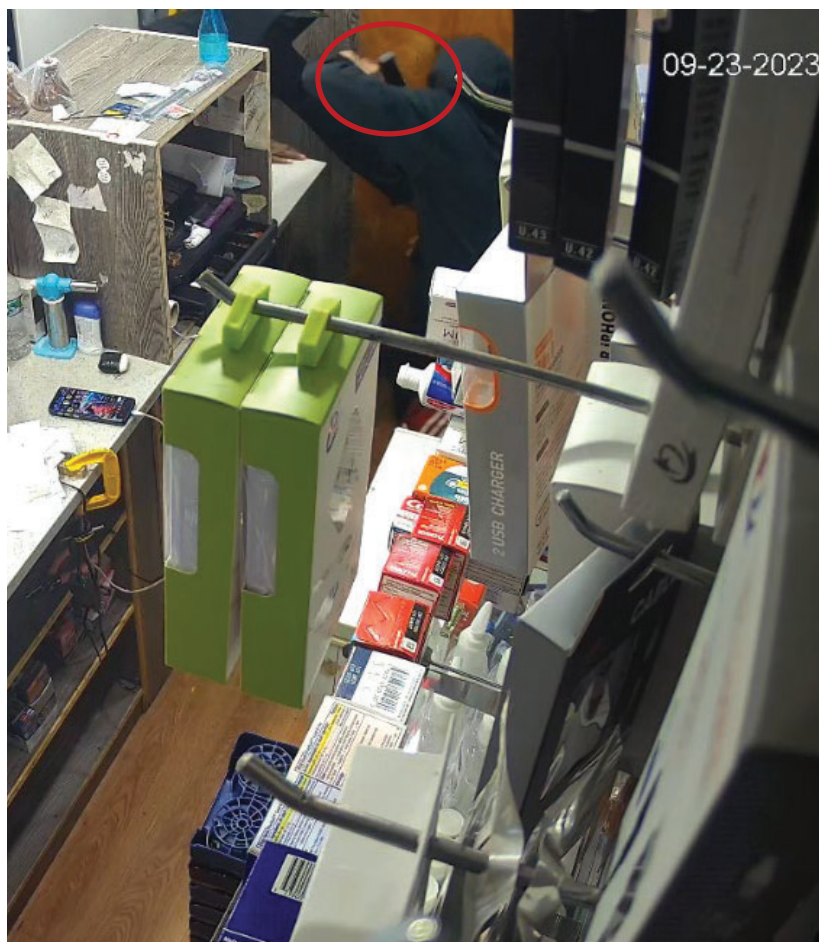


4. After they arrived at the Bodega, surveillance video captured Robber-3 remaining at the entrance, holding the front door and acting as a lookout as Robbers 1 and 2 entered the Bodega. The surveillance still below depicts Robber-3, wearing the grey sweatsuit and the distinctive red and black sneakers, holding the front door to the Bodega after Robbers 1 and 2 entered the location.



5. At the time of the robbery, a store employee (the “Victim”) was working behind the counter. Almost immediately after Robbers 1 and 2 entered the Bodega, Robber-1 pushed past a partition to get behind the counter. The Victim then began to struggle with Robber-1 who had brandished a firearm in the Victim’s direction, as shown below (with a red

circle indicating the location of the firearm). The Victim later reported to law enforcement that Robber-1 struck him in the head with the firearm.



6. As Robber-1 struggled with the Victim, Robber-2 opened the cash register of the Bodega and stole cash from the register, as shown below.



7. Before leaving the Bodega, Robber-1 also reached into the register and stole additional cash. Robbers 1 and 2 then fled the Bodega and ran away with Robber-3 who had been waiting for them at the entrance of the Bodega.

8. The surveillance still below to the left, which depicts the moment Robber-1 fled the Bodega, captured the distinctive grey and white hi-top sneakers with the Air Jordan logo he wore during the Bodega Robbery. The surveillance still below to the right, which also depicts the moment Robber-2 fled the Bodega, [REDACTED]

[REDACTED]



Identification of Robber-1 as the Defendant RYAN NIEVES

9. On or about September 22, 2023, at approximately 1:14 p.m., the day before the Bodega Robbery, surveillance video from the Bodega captured three individuals entering the Bodega (two of which resembled Robbers 1 and 2) and then speaking with the employee who was working at that time. The individual who resembled Robber-1 was unmasked this time and appeared to be wearing the same distinctive grey and white Air Jordan sneakers worn during the Bodega Robbery. The individual who resembled Robber-2 was masked but appeared to be wearing [REDACTED]

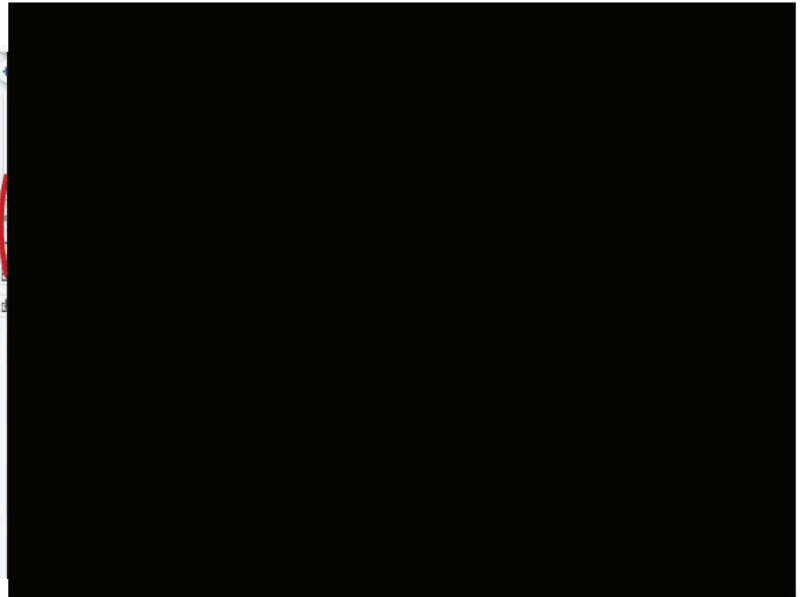
[REDACTED] The Bodega was not robbed on September 22, 2023.

10. On or about October 3, 2023, the Victim identified Robber-1 (known to law enforcement as the defendant RYAN NIEVES) in a photo array procedure. On or about

October 23, 2023, law enforcement agents recovered a cell phone from NIEVES (the “NIEVES Phone”) incident to an unrelated arrest. A digital forensic extraction of that device, pursuant to a judicially authorized search warrant, revealed that the phone number associated with that device ended in 0744 (the “0744 Number”).

11. The same search of the NIEVES Phone revealed that, on the day of the September 23rd Robbery, the defendant RYAN NIEVES sent an unknown individual a photo of what appeared to be the [REDACTED]

[REDACTED] same grey and white Air Jordan sneakers worn by NIEVES during the Bodega Robbery. The photo to the left is the original photo sent by NIEVES [REDACTED]



12. Historical cell site records for the 0744 Number, obtained through a judicially authorized search warrant, placed the 0744 Number (and by extension, the defendant

RYAN NIEVES) within the vicinity of the Bodega at the approximate time of the Bodega Robbery.

[REDACTED]

13.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14.

[REDACTED]

[REDACTED]

[REDACTED]

15. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16. [REDACTED]

[REDACTED]

Identification of Robber-3 as the Defendant CALEB SMITH

17. Immediately after the Bodega Robbery, the Victim chased after the robbers but did not succeed in apprehending them. A witness (the “Witness”) who saw the Victim chasing after the robbers (but who had not witnessed the Bodega Robbery) also joined in the chase. The Witness managed to chase Robber-3 into a nearby deli (the “Deli”) but let him go after Robber-3 claimed that the other individuals had robbed the Bodega and that he had only held the door.

18. As shown below, surveillance video inside the Deli captured an image of Robber-3 who was wearing clothing, which was consistent with the same clothing worn by Robber-3 during the Bodega Robbery.



19. A police officer with the NYPD, who previously had a personal interaction with the defendant CALEB SMITH, reviewed surveillance video from the Deli and identified Robber-3 as SMITH.

20. I also observed a publicly available photo from an Instagram account belonging to the defendant CALEB SMITH, such as the one below, showing SMITH (to the left) wearing what appear to be the same red and black sneakers he wore during the Bodega Robbery. The defendant RYAN NIEVES also appears in the same photo (to the right) wearing what appear to be the same distinctive grey and white Air Jordan hi-top sneakers he wore during the Bodega Robbery.




21. On the basis of the facts above, I submit there is probable cause to arrest the defendants [REDACTED], RYAN NIEVES and CALEB SMITH for committing Hobbs Act robbery and the unlawful use of a firearm in furtherance of the robbery, in violation of Title 18, United States Code, Sections 1951(a) and 924(c) on or about September 23, 2023.


22. It is respectfully requested that this Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the application and arrest warrants, as disclosure would give the defendants [REDACTED], RYAN NIEVES and CALEB SMITH an opportunity to change patterns of behavior and flee from or evade prosecution and therefore have a significant and negative impact on the continuing

investigation that may severely jeopardize its effectiveness, except that the undersigned may distribute copies of this charging document and any resulting arrest warrant to other law enforcement authorities as necessary to effectuate the defendants' arrests.

WHEREFORE, your deponent respectfully requests that arrest warrants be issued so that the defendants [REDACTED], RYAN NIEVES and CALEB SMITH may be dealt with according to law.


MAX DOUGAL
Special Agent
Federal Bureau of Investigation

Sworn to telephonically
before me on May ____, 2024 May 21, 2024



HONORABLE SANKET J. BULSARA
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK